

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

BURLINGAME UNIFIED SCHOOL  
DISTRICT AND SAN MATEO UNION  
HIGH SCHOOL DISTRICT.

OAH Case No. 2015030944

ORDER DENYING MOTION OF  
BURLINGAME UNIFIED SCHOOL  
DISTRICT TO BE DISMISSED AS A  
PARTY.

On April 14, 2015, Burlingame Unified School District (Burlingame) filed a motion to be dismissed as a party on the grounds that the claims against it in Student's due process hearing request (complaint) had no merit.

Student filed an opposition on April 17, 2015, supported by a declaration of Student's counsel. On April 20, 2015, student filed an amended declaration of counsel.

APPLICABLE LAW

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education," and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child." (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).)

Although OAH will grant motions to dismiss allegations that are facially outside of OAH jurisdiction (for example, civil rights claims and section 504 claims), special education law does not provide for a summary judgment procedure.

DISCUSSION AND ORDER

Student's complaint alleges that Burlingame failed, since April 26, 2012, to convene an individualized education program team meeting to discuss Student's educational progress or to offer Student a FAPE. Student claims that, from March 2013 through March 2015: (1) Burlingame denied Student a FAPE, (2) Respondents denied Student a FAPE, and (3) San Mateo Union High School District denied Student a FAPE. Student also requests a

determination of which school district, or districts, was responsible for Student's education during the time period at issue.

Burlingame seeks to be dismissed as a party because it is an elementary school district, and was not responsible for Student after he passed eighth grade with good grades at the end of the 2011-2012 school year and matriculated to high school. The motion is supported by the sworn declaration of Burlingame's interim director of special education, and copies of Student's report cards from the 2011-2012 school year.

Burlingame's motion is not limited to matters that are facially outside of OAH jurisdiction, but instead seeks a ruling on the merits. Accordingly, the motion is denied. All dates currently set in this matter are confirmed.

IT IS SO ORDERED.

DATE: April 22, 2015

/s/

---

ALEXA J. HOHENSEE  
Administrative Law Judge  
Office of Administrative Hearings